



Board of Adjustment Zoning Variance Application Packet

Asheville, North Carolina

The following information is **required** to be submitted prior to review by City Staff for placement on the Board of Adjustment agenda:

- [] 1. Completed Property Information Form.
- [] 2. A notarized letter from the property owner stating that the Petitioner has permission to apply to the Board for the requested variance, if the Petitioner is not the property owner.
- [] 3. Completed Application form.
- [] 4. Application and plans for Level I project review (if applicable).
- [] 5. Eight (8) sets of the completed site plans, including buildings, landscaping, parking, building elevations, signage, and other pertinent information as requested by staff.
- [] 6. **Filing Fee: \$208.00 plus \$52.00 for each additional request at the same site.**

To The Applicant: By placing a check mark by each of the following paragraphs, you are certifying that you have performed that task. A check mark must be placed by each numbered paragraph before placement on the Board's agenda.

- [] 7. a. Pre-application conference with the Planning & Development staff.
b. With whom: _____
- [] 8. Petitioner has checked for Homeowner Association rules, property covenants, deed restrictions, Building Safety Department, and other requirements that might have a bearing on the application.
- [] 9. Any available information to be presented as an exhibit at the variance hearing should be submitted to the Secretary at the time of application (if applicable).
- [] 10. If a Court Reporter is needed, then the petitioner is responsible for making those arrangements and notifying the Board of Adjustment Secretary.

-Pursuant to NCGS 160A-388, City Code Sec. 7-6-2, and the Rules of Procedure for the Board of Adjustment, appeals from decisions of the City's administrative staff must be filed with the City Clerk no later than 30 days of receipt of written notice of the contested decision..

-The Authorized Practice Committee of the North Carolina State Bar has issued an opinion (Advisory Opinion 2006-1) stating in essence that appearance in a representative capacity before quasi-judicial bodies of local government, such as boards of adjustment, is the practice of law within the meaning of NCGS 84-2.1 and 84-4, which prohibit the unauthorized practice of law.

City Planning staff may not provide legal advice to applicants. Applicants are advised to consult the appropriate sections of the North Carolina General Statutes, Asheville City Code, and the Rules of Procedure for the Board of Adjustment, or to consult with an attorney, if more information is needed.

**North Carolina
Buncombe County
City of Asheville**

Case Before the Asheville Board of Adjustment

Please fill out form completely.

Property Address/Location: _____

PIN Map # : _____

Zoning: _____ Use of Property: _____

Title to this property is in the name of : (Furnish current address/please print legibly)

Property Owner: _____

Owner's Address: _____

(Property Owner's Signature)

(Business Name or Petitioner if other than Property Owner)

(Petitioner's Address)

(Agent's Name)

(Agent's Address)

(Phone Number)

(Phone Number)

I, _____, hereby petition the Board of Adjustment for a variance(s)
from the provisions of the Unified Development Ordinance (UDO) for my real property located at

Applicable UDO Section: _____

UDO Requirement: _____

Variance Requested:

Standards for Granting a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board shall grant a variance only upon a showing of **all** of the following. In the spaces provided, please indicate the *facts* that you intend to show and the *arguments* that you intend to make to convince the Board that it can properly reach these required conclusions.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate, that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship of which the applicant complains results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. { *Also, unique personal or family hardships are irrelevant, since a variance if, granted, runs with the land.* }

3. The hardship is not the result of the applicant's own actions. *[The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.]*

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. *[Demonstrate that this variance request represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that, if granted, will not substantially detract from the character of the neighborhood or the purpose and intent of the section of the code from which it seeks to deviate. Also, demonstrate that the benefit to the public will (or will not) be substantially outweighed by the harm suffered by the applicant.]*

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the UDO. Violations of the provisions of the variance granted, including any conditions or safeguards, which are a part of the granting of the variance, shall be deemed a violation of the UDO. I, _____, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

DATE

PETITIONER'S SIGNATURE

PETITIONER'S NAME (PLEASE PRINT)